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OCTOBER 10, 2005

MARK Bougeois

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10/10/2005

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Serial no.:	09/944,932
Filing date:	08/31/2001
For:	Euphorbia Plant named 'Charam'
Inventor:	Tickner
Atty. Docket no.:	PH39
Group Art Unit:	1661
Examiner:	Para
Confirmation No.:	2267

RESPONSE

Dear Sir:

This is in response to the Office Action dated 08/31/2005. No additional fees are believed to be necessary.

Rejection under 35 USC 102

Claim 1 was rejected under 35 USC 102b as being anticipated by Plant Breeders Rights Grant number 03000204 published on January 1, 1996 in the United Kingdom in view of sales of Charam in the United Kingdom as early as April 1, 1998.

The office has cited *In re Elsner*, 24 USPQ 2d 1618, 1620 (CAFC 2004), as the basis for this rejection. *In re Elsner* clearly states that in order to enable a plant